

# EXHIBIT 106

## Santa Fe, NM

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THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

-----X

In Re: PHARMACEUTICAL INDUSTRY ) MDL No. 1456  
AVERAGE WHOLESALE PRICE LITIGATION ) Master File No.  
-----) 01-CV-12257-PBS

THIS DOCUMENT RELATES TO: )  
United States of America ex rel. ) Hon. Patti B.  
Ven-A-Care of the Florida Keys, ) Saris  
Inc., et al., v. Dey, Inc., et al., )  
Civil Action No. 05-11084-PBS; )  
and United States of America ex ) DEPOSITION OF  
rel. Ven-A-Care of the Florida ) THE NEW MEXICO  
Keys, Inc., et al., v. Boehringer ) DEPARTMENT OF  
Ingelheim Corp., et al., Civil ) HUMAN SERVICES  
Action No. 07-10248-PBS; ) by ROBERT J.  
and United States ex rel. Ven-A-Care) STEVENS  
of the Florida Keys v. Abbott )  
Laboratories, Inc., Civil Action ) DECEMBER 15,  
Nos. 06-CV-11337 and 07-CV-11618 ) 2008  
-----X

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<p>1 DEPOSITION OF ROBERT J. STEVENS</p> <p>2 December 15, 2008</p> <p>3 9:23 a.m.</p> <p>4 Hilton Santa Fe Historic Plaza</p> <p>5 100 Sandoval Street</p> <p>6 Santa Fe, New Mexico 87501</p> <p>7</p> <p>8</p> <p>9 PURSUANT TO THE FEDERAL RULES OF CIVIL</p> <p>10 PROCEDURE, this deposition was:</p> <p>11</p> <p>12 TAKEN BY: DOUGLAS E. JULIE, ESQ.</p> <p>13 Attorney for Dey, Inc., Dey L.P., Inc.,</p> <p>14 and Dey L.P.</p> <p>15</p> <p>16 REPORTED BY: Jan A. Williams, RPR, CCR 14</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 A P P E A R A N C E S (CONTINUED)</p> <p>2</p> <p>3 For the New Mexico Human Services Department and the</p> <p>4 Deponent:</p> <p>5</p> <p>6 ALFRED J. MARTIN, JR., M.D., ESQ.</p> <p>7 Assistant General Counsel</p> <p>8 Office of the General Counsel</p> <p>9 Human Services Department</p> <p>10 State of New Mexico</p> <p>11 2009 S. Pacheco</p> <p>12 Santa Fe, New Mexico 87505</p> <p>13 505-827-7712</p> <p>14</p> <p>15</p> <p>16 For Ven-A-Care of the Florida Keys, Inc.:</p> <p>17</p> <p>18 RAND J. RIKLIN, ESQ.</p> <p>19 GOODE CASSEB JONES RIKLIN CHOATE &amp; WATSON, P.C.</p> <p>20 2122 North Main Avenue</p> <p>21 San Antonio, Texas 78212</p> <p>22 210-733-6030</p>
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<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 For Dey, Inc., Dey L.P., Inc., and Dey L.P.:</p> <p>4</p> <p>5 DOUGLAS E. JULIE, ESQ.</p> <p>6 KELLEY DRYE &amp; WARREN, L.L.P.</p> <p>7 101 Park Avenue</p> <p>8 New York, New York 10178</p> <p>9 212-808-5001</p> <p>10</p> <p>11</p> <p>12 For the New Mexico Human Services Department and the</p> <p>13 Deponent:</p> <p>14</p> <p>15 NAN E. ERDMAN, ESQ.</p> <p>16 Assistant Attorney General</p> <p>17 Litigation Division</p> <p>18 State of New Mexico</p> <p>19 408 Galisteo Street</p> <p>20 Santa Fe, New Mexico 87501</p> <p>21 505-827-6624</p> <p>22</p>	<p>1 A P P E A R A N C E S (CONTINUED)</p> <p>2</p> <p>3 For Abbott Laboratories, Inc.:</p> <p>4</p> <p>5 TARA A. FUMERTON, ESQ. (by telephone)</p> <p>6 JONES DAY</p> <p>7 77 West Wacker Drive, Suite 3500</p> <p>8 Chicago, Illinois 60601</p> <p>9 312-782-3939</p> <p>10</p> <p>11</p> <p>12 Also Present:</p> <p>13</p> <p>14 MARK SCHAREN, Videographer</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

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4	EXAMINATION BY MR. JULIE.....	010	4	9/13/84..... 297	
5	EXAMINATION BY MS. FUMERTON.....	216	5	Exhibit US-NM 004 - State plan amendment,	
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1	D E Y E X H I B I T S		1	P R O C E E D I N G S	
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3	Exhibit Dey 534 - Chart.....	204	3	THE VIDEOGRAPHER: On this day, the	
4			4	15th of December, we are gathered at the Hilton	
5			5	Santa Fe Historic Plaza located at 100 Sandoval	
6	A B B O T T E X H I B I T S		6	Street, Santa Fe, New Mexico, 87501, to hear the	
7	NUMBER	DESCRIPTION PAGE	7	deposition of Robert Stevens. The court reporter	
8	Exhibit Abbott-NM 001 - Cross-Notice of		8	is Jan Williams and myself, Mark Scharen,	
9	Deposition.....	217	9	videographer for Henderson Legal Services.	
10	Exhibit Abbott-NM 002 - Medical Assistance		10	Present in the room are:	
11	Program Manual.....	227	11	MR. JULIE: Douglas Julie of Kelley	
12	Exhibit Abbott-NM 003 - Letter, undated, with		12	Drye & Warren for defendants Dey, Inc., Dey L.P.,	
13	attachments.....	258	13	Inc., and Dey L.P.	
14			14	MS. ERDMAN: Nan Erdman representing	
15			15	the New Mexico Human Services Division and the	
16	U. S. - N. M. E X H I B I T S		16	deponent Robert Stevens with the New Mexico	
17	NUMBER	DESCRIPTION PAGE	17	Attorney General's Office.	
18	Exhibit US-NM 001 - State plan amendment,		18	MR. RIKLIN: Rand Riklin, San Antonio,	
19	9/24/82.....	296	19	Texas, for the relator Ven-A-Care of the Florida	
20	Exhibit US-NM 002 - State plan amendment,		20	Keys, Inc.	
21	8/17/83.....	297	21	MR. MARTIN: Alfred Martin, Santa Fe,	
22	(CONTINUED)		22	New Mexico. I represent the Human Services	

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<p>1 Q. Okay. And that's a formal document, a 2 legislative opinion?</p> <p>3 A. There isn't a formal document called a 4 legislative opinion. But these are sometimes -- 5 things are expressed in legislation.</p> <p>6 Q. Yeah. But by legislative opinion, you 7 don't mean that a legislator called up an 8 official with the Medicaid program and expressed 9 his opinion regarding reimbursement, that that 10 would not be considered a legislative opinion; is 11 that correct?</p> <p>12 A. That's not what I'm referring to as a 13 legislative opinion.</p> <p>14 Q. Okay. Would legislators -- have 15 legislators ever contacted the state to express 16 their opinion about reimbursement levels of 17 pharmaceuticals?</p> <p>18 A. I don't know of a specific instance 19 where they were referring to reimbursement 20 levels.</p> <p>21 Q. Do legislators ever contact the 22 Medicaid program regarding reimbursement policy</p>	<p>1 Q. Okay. And when was that survey 2 conducted?</p> <p>3 A. I believe that it was in 18 -- I'm 4 sorry. 1989 or 1990, around that time period.</p> <p>5 Q. Do you recall who conducted that study?</p> <p>6 A. His name was David Ricks.</p> <p>7 Q. Ricks, R-i-c-k-s?</p> <p>8 A. Yes.</p> <p>9 Q. What was his title, if you recall?</p> <p>10 A. I don't remember his specific title. 11 He was primarily an economist that worked for the 12 Medical Assistance Division for a short time.</p> <p>13 Q. Do you recall what the findings of his 14 survey were?</p> <p>15 A. Not specifically, no.</p> <p>16 Q. Do you recall if his survey estimated a 17 New Mexico pharmacy's costs associated with 18 dispensing pharmaceuticals under the Medicaid 19 program?</p> <p>20 A. Yes, that specifically what it was 21 related to.</p> <p>22 Q. And do you remember what his estimate</p>
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<p>1 at all?</p> <p>2 A. There are times in legislative hearings 3 where they might express or ask questions about 4 pharmacy reimbursement.</p> <p>5 Q. Okay. And you had stated -- you had 6 mentioned dispensing fee surveys. Do you recall 7 that you had mentioned that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. What surveys has New Mexico looked at 10 regarding dispensing fees in setting its 11 pharmaceutical reimbursement rate?</p> <p>12 A. What I was referring to was that in the 13 time that I've worked for state government, there 14 have been two pharmacy dispensing fee surveys 15 that were conducted by the department or -- or 16 through a contractor to the department.</p> <p>17 Q. Do you recall whether the department 18 itself ever conducted any of those surveys?</p> <p>19 A. Well, the second survey, the individual 20 that did it was within the Medical Assistance 21 Division. And so there was not an outside 22 contractor for that second survey.</p>	<p>1 of cost was in that survey?</p> <p>2 A. I believe that it was somewhere in the 3 \$3 range or the very low \$4 range. I believe 4 that is what it was approximately.</p> <p>5 Q. And was there a survey of dispensing 6 fees conducted before that for New Mexico?</p> <p>7 A. Yes, there was.</p> <p>8 Q. And who conducted that survey?</p> <p>9 A. It was a company based in I believe 10 Anton Chico, California, but I don't remember the 11 name of the company.</p> <p>12 Q. Can you remember when that survey was 13 conducted?</p> <p>14 A. I believe it was about 1978 or '79.</p> <p>15 Q. And do you remember what the results of 16 that survey was?</p> <p>17 A. Not specifically, no, I don't.</p> <p>18 MS. ERDMAN: Objection to the 19 continuation of that line, it exceeds the time 20 scope of the notice.</p> <p>21 MR. RIKLIN: Same objection.</p> <p>22 BY MR. JULIE:</p>

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